

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

KENNETH SPRIGGLE,

Plaintiff

v.

CO MICHAEL LEVEBRE, *et al.*,

Defendants

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CIVIL ACTION NO. 3:18-CV-1136

(Judge Caputo)

O R D E R

AND NOW, this 12th day of MARCH 2019, in accordance with the accompanying Memorandum issued this date, it is **ORDERED** that:

1. Mr. Spriggle's application for leave to proceed *in forma pauperis* (ECF No. 2) is granted.
2. Plaintiff must, and has agreed to, pay the full \$350.00 filing fee regardless of the outcome of the litigation. (ECF No. 7).
3. Pursuant to 28 U.S.C. § 1915(b)(1) and (2), the Superintendent/Warden, or other appropriate official at Plaintiff's place of confinement is directed to deduct an initial partial filing fee of 20% of the greater of:
 - (A) the average monthly deposits in the inmate's prison account for the past six months, or
 - (B) the average monthly balance in the inmate's prison account for the past six months.

The initial partial filing fee shall be forwarded to the Clerk of the United States District Court for the Middle District of Pennsylvania, P.O. Box 1148, Scranton, Pennsylvania, 18501-1148, to be credited to the above-captioned docket number. In each succeeding month, when the amount in the Plaintiff's inmate prison account exceeds \$10.00, the Superintendent/Warden, or other appropriate official, shall

forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Plaintiff's prison account until the \$350.00 fee is paid. Each payment shall reference the above-captioned docket number.

4. The Clerk of Court is directed to send a copy of this Order to the Superintendent/Warden of the institution wherein Plaintiff is presently confined.
5. Mr. Spriggle's claim for monetary damages against the named defendants in their official capacities is dismissed with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).
6. Mr. Spriggle's claim against inmate Carlton Ewell is dismissed with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).
7. Within twenty-one (21) days from the date of this Order, Mr. Spriggle may file an amended complaint in accordance with the Court's Memorandum of the same date.
8. The Clerk of Court shall forward to Plaintiff two (2) copies of this Court's prisoner civil-rights complaint form which Mr. Spriggle shall use in preparing any amended complaint he may file.
9. Should Plaintiff fail to file a timely amended complaint, this matter will proceed exclusively on Plaintiff's Eighth Amendment failure to protect/intervene claim lodged against CO LeVerbe and Sgt. McCullough.
10. At all times Plaintiff shall maintain on file with the Clerk of Court a current address. See M.D. Pa. LR 83.18. If the Court is unable to communicate with the Plaintiff because the Plaintiff has failed to notify the Court of his address, the Plaintiff will be deemed to have abandoned his lawsuit.

/s/ A. Richard Caputo
A. RICHARD CAPUTO
United States District Judge